

Representative Carl R. Albrecht proposes the following substitute bill:

CONSTRUCTION TRADE AMENDMENTS

2024 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Carl R. Albrecht

Senate Sponsor: Don L. Ipson

LONG TITLE

General Description:

This bill modifies the exemptions from licensure under the Utah Construction Trades Licensing Act and adds to the definition of qualifying violation.

Highlighted Provisions:

This bill:

- ▶ modifies the threshold dollar amount allowing a person to engage in construction trades without being licensed; and
- ▶ adds failure to obtain a building permit as a qualifying violation.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

58-55-305, as last amended by Laws of Utah 2020, Chapter 339

58-55-503, as last amended by Laws of Utah 2023, Chapters 111, 223

Be it enacted by the Legislature of the state of Utah:



26 Section 1. Section **58-55-305** is amended to read:

27 **58-55-305. Exemptions from licensure.**

28 (1) In addition to the exemptions from licensure in Section **58-1-307**, the following
29 persons may engage in acts or practices included within the practice of construction trades,
30 subject to the stated circumstances and limitations, without being licensed under this chapter:

31 (a) an authorized representative of the United States government or an authorized
32 employee of the state or any of its political subdivisions when working on construction work of
33 the state or the subdivision, and when acting within the terms of the person's trust, office, or
34 employment;

35 (b) a person engaged in construction or operation incidental to the construction and
36 repair of irrigation and drainage ditches of regularly constituted irrigation districts, reclamation
37 districts, and drainage districts or construction and repair relating to farming, dairying,
38 agriculture, livestock or poultry raising, metal and coal mining, quarries, sand and gravel
39 excavations, well drilling, as defined in Section **73-3-25**, hauling to and from construction
40 sites, and lumbering;

41 (c) public utilities operating under the rules of the Public Service Commission on work
42 incidental to their own business;

43 (d) a sole owner of property engaged in building:

44 (i) no more than one residential structure per year on the sole owner's property and no
45 more than three residential structures per five years on the sole owner's property for the sole
46 owner's noncommercial, nonpublic use, except that a person other than the property owner or a
47 person described in Subsection (1)(e), who engages in building a residential structure must be
48 licensed under this chapter if the person is otherwise required to be licensed under this chapter;
49 or

50 (ii) structures on the sole owner's property for the sole owner's noncommercial,
51 nonpublic use that are incidental to a residential structure on the property, including a shed,
52 carport, or detached garage;

53 (e) (i) a person engaged in construction or renovation of a residential building for
54 noncommercial, nonpublic use if that person:

55 (A) works without compensation other than token compensation that is not considered
56 salary or wages; and

57 (B) works under the direction of the property owner who engages in building the
58 structure; and

59 (ii) as used in this Subsection (1)(e), "token compensation" means compensation paid
60 by a sole owner of property exempted from licensure under Subsection (1)(d) to a person
61 exempted from licensure under this Subsection (1)(e), that is:

62 (A) minimal in value when compared with the fair market value of the services
63 provided by the person;

64 (B) not related to the fair market value of the services provided by the person; and

65 (C) is incidental to the providing of services by the person including paying for or
66 providing meals or refreshment while services are being provided, or paying reasonable
67 transportation costs incurred by the person in travel to the site of construction;

68 (f) a person engaged in the sale or merchandising of personal property that by its design
69 or manufacture may be attached, installed, or otherwise affixed to real property who has
70 contracted with a person, firm, or corporation licensed under this chapter to install, affix, or
71 attach that property;

72 (g) a contractor submitting a bid on a federal aid highway project, if, before
73 undertaking construction under that bid, the contractor is licensed under this chapter;

74 (h) (i) subject to Subsection 58-1-401(2) and Sections 58-55-501 and 58-55-502, a
75 person engaged in the alteration, repair, remodeling, or addition to or improvement of a
76 building with a contracted or agreed value of less than [~~\$3,000;~~] ~~Ĥ~~→ [\$35,000;] \$9,000, ←~~Ĥ~~

76a including both labor

77 and materials, and including all changes or additions to the contracted or agreed upon work;
78 and

79 (ii) notwithstanding Subsection (1)(h)(i) and except as otherwise provided in this
80 section:

81 (A) work in the plumbing and electrical trades on a Subsection (1)(h)(i) project within
82 any six month period of time:

83 (I) ~~Ĥ~~→ [~~must~~] shall ←~~Ĥ~~ be performed by a licensed electrical or plumbing contractor, if the
83a project

84 involves an electrical or plumbing system; and

85 (II) may be performed by a licensed journeyman electrician or plumber or an individual
86 referred to in Subsection (1)(h)(ii)(A)(I), if the project involves a component of the system
87 such as a faucet, toilet, fixture, device, outlet, or electrical switch;

88 (B) installation, repair, or replacement of a residential or commercial gas appliance or a
89 combustion system on a Subsection (1)(h)(i) project ~~shall~~ **[must]** shall ~~be~~ be performed by a
89a person who has

90 received certification under Subsection 58-55-308(2) except as otherwise provided in
91 Subsection 58-55-308(2)(d) or 58-55-308(3);

92 (C) installation, repair, or replacement of water-based fire protection systems on a
93 Subsection (1)(h)(i) project must be performed by a licensed fire suppression systems
94 contractor or a licensed journeyman plumber;

95 (D) work as an alarm business or company or as an alarm company agent shall be
96 performed by a licensed alarm business or company or a licensed alarm company agent, except
97 as otherwise provided in this chapter;

98 (E) installation, repair, or replacement of an alarm system on a Subsection (1)(h)(i)
99 project must be performed by a licensed alarm business or company or a licensed alarm
100 company agent;

101 (F) installation, repair, or replacement of a heating, ventilation, or air conditioning
102 system (HVAC) on a Subsection (1)(h)(i) project must be performed by an HVAC contractor
103 licensed by the division;

104 (G) installation, repair, or replacement of a radon mitigation system or a soil
105 depressurization system must be performed by a licensed contractor; and

106 (H) if the total value of the project is greater than [~~\$1,000,~~] \$3,000, the person shall file
107 with the division a one-time affirmation, subject to periodic reaffirmation as established by
108 division rule, that the person has:

109 (I) public liability insurance in coverage amounts and form established by division
110 rule; and

111 (II) if applicable, workers compensation insurance which would cover an employee of
112 the person if that employee worked on the construction project;

113 (i) a person practicing a specialty contractor classification or construction trade which
114 the director does not classify by administrative rule as significantly impacting the public's
115 health, safety, and welfare;

116 (j) owners and lessees of property and persons regularly employed for wages by owners
117 or lessees of property or their agents for the purpose of maintaining the property, are exempt
118 from this chapter when doing work upon the property;

119 (k) (i) a person engaged in minor plumbing work that is incidental, as defined by the
120 division by rule, to the ~~replacement or~~ repair of a fixture or an appliance in a residential
120a or
121 small commercial building, or structure used for agricultural use, as defined in Section
122 15A-1-202, provided that no modification is made to:

- 123 (A) existing culinary water, soil, waste, or vent piping; or
- 124 (B) a gas appliance or combustion system; and

125 (ii) except as provided in Subsection (1)(e), installation for the first time of a fixture or
126 an appliance is not included in the exemption provided under Subsection (1)(k)(i);

127 (l) a person who ordinarily would be subject to the plumber licensure requirements
128 under this chapter when installing or repairing a water conditioner or other water treatment
129 apparatus if the conditioner or apparatus:

- 130 (i) meets the appropriate state construction codes or local plumbing standards; and
- 131 (ii) is installed or repaired under the direction of a person authorized to do the work
132 under an appropriate specialty contractor license;

133 (m) a person who ordinarily would be subject to the electrician licensure requirements
134 under this chapter when employed by:

- 135 (i) railroad corporations, telephone corporations or their corporate affiliates, elevator
136 contractors or constructors, or street railway systems; or
- 137 (ii) public service corporations, rural electrification associations, or municipal utilities
138 who generate, distribute, or sell electrical energy for light, heat, or power;

139 (n) a person involved in minor electrical work incidental to a mechanical or service
140 installation, including the outdoor installation of an above-ground, prebuilt hot tub;

141 (o) a person who ordinarily would be subject to the electrician licensure requirements
142 under this chapter but who during calendar years 2009, 2010, or 2011 was issued a specialty
143 contractor license for the electrical work associated with the installation, repair, or maintenance
144 of solar energy panels, may continue the limited electrical work for solar energy panels under a
145 specialty contractor license;

146 (p) a student participating in construction trade education and training programs
147 approved by the commission with the concurrence of the director under the condition that:

- 148 (i) all work intended as a part of a finished product on which there would normally be
149 an inspection by a building inspector is, in fact, inspected and found acceptable by a licensed

150 building inspector; and

151 (ii) a licensed contractor obtains the necessary building permits;

152 (q) a delivery person when replacing any of the following existing equipment with a
153 new gas appliance, provided there is an existing gas shutoff valve at the appliance:

154 (i) gas range;

155 (ii) gas dryer;

156 (iii) outdoor gas barbeque; or

157 (iv) outdoor gas patio heater;

158 (r) a person performing maintenance on an elevator as defined in Section 58-55-102, if
159 the maintenance is not related to the operating integrity of the elevator; and

160 (s) an apprentice or helper of an elevator mechanic licensed under this chapter when
161 working under the general direction of the licensed elevator mechanic.

162 (2) A compliance agency as defined in Section 15A-1-202 that issues a building permit
163 to a person requesting a permit as a sole owner of property referred to in Subsection (1)(d) shall
164 notify the division, in writing or through electronic transmission, of the issuance of the permit.

165 Section 2. Section 58-55-503 is amended to read:

166 **58-55-503. Penalty for unlawful conduct -- Citations.**

167 (1) As used in this section:

168 (a) "Person" means, in reference to Subsection 58-55-504(2), an individual, and does
169 not include a sole proprietorship, joint venture, corporation, limited liability company,
170 association, or organization of any type.

171 (b) "Qualifying violation" means a violation under:

172 (i) Subsection 58-55-308(2);

173 (ii) Subsections 58-55-501(1) through (3), (7), (9), (10), (12), (14), (16)(e), (18), or
174 (20) through (28);

175 (iii) Subsection 58-55-502(4)(a) or (11); or

176 (iv) Subsection 58-55-504(2).

177 (2) (a) A person who violates Subsection 58-55-501(1) through (7), (9), (10), (12),
178 (14), (15), (16)(e), or (21) through (28), Subsection 58-55-308(2), or Subsection 58-55-504(2),
179 or who fails to comply with a citation issued under this section after the citation is final, is
180 guilty of a class A misdemeanor.

181 (b) A person who violates the provisions of Subsection 58-55-501(8) may not be
182 awarded and may not accept a contract for the performance of the work.

183 (3) A person who violates Subsection 58-55-501(13) is guilty of:

184 (a) an infraction; or

185 (b) if the violator did so with the intent to deprive the person to whom money is to be
186 paid of the money received, of theft under Section 76-6-404.

187 (4) Grounds for immediate suspension of a licensee's license by the division and the
188 commission include:

189 (a) the issuance of a citation for violation of Subsection 58-55-308(2), Section
190 58-55-501, or Subsection 58-55-504(2); and

191 (b) the failure by a licensee to make application to, report to, or notify the division with
192 respect to any matter for which application, notification, or reporting is required under this
193 chapter or rules adopted under this chapter, including:

194 (i) applying to the division for a new license to engage in a new specialty classification
195 or to do business under a new form of organization or business structure;

196 (ii) filing a current financial statement with the division; and

197 (iii) notifying the division concerning loss of insurance coverage or change in qualifier.

198 (5) (a) (i) If upon inspection or investigation, the division concludes that a person has
199 committed a qualifying violation or violated any rule or order issued with respect to a
200 qualifying violation, and that disciplinary action is appropriate, the director or the director's
201 designee from within the division shall:

202 (A) promptly issue a citation to the person according to this chapter and any pertinent
203 rules;

204 (B) attempt to negotiate a stipulated settlement; or

205 (C) notify the person to appear before an adjudicative proceeding conducted under
206 Title 63G, Chapter 4, Administrative Procedures Act.

207 (ii) A person who committed a qualifying violation, as evidenced by an uncontested
208 citation, a stipulated settlement, or by a finding of violation in an adjudicative proceeding, may
209 be assessed a fine and may, in addition to or in lieu of, be ordered to cease and desist from
210 engaging in the qualifying violation.

211 (iii) Except for a cease and desist order, the licensure sanctions cited in Section

212 58-55-401 may not be assessed through a citation.

213 (b) A citation shall:

214 (i) be in writing and describe with particularity the nature of the violation, including a
215 reference to the provision of the chapter, rule, or order alleged to have been violated;

216 (ii) clearly state that the recipient must notify the division in writing within 20 calendar
217 days after the day on which the citation is served if the recipient wishes to contest the citation
218 at a hearing conducted under Title 63G, Chapter 4, Administrative Procedures Act; and

219 (iii) clearly explain the consequences of failure to timely contest the citation or to make
220 payment of any fines assessed by the citation within the time specified in the citation.

221 (c) A citation issued under this section, or a copy of a citation, may be served upon a
222 person upon whom a summons may be served:

223 (i) in accordance with the Utah Rules of Civil Procedure;

224 (ii) personally or upon the person's agent by a division investigator or by a person
225 specially designated by the director; or

226 (iii) by mail.

227 (d) (i) If within 20 calendar days after the day on which a citation is served, the person
228 to whom the citation was issued fails to request a hearing to contest the citation, the citation
229 becomes the final order of the division and is not subject to further agency review.

230 (ii) The period to contest a citation may be extended by the division for cause.

231 (e) The division may refuse to issue or renew, suspend, revoke, or place on probation
232 the license of a licensee who fails to comply with a citation after the citation becomes final.

233 (f) The failure of an applicant for licensure to comply with a citation after the citation
234 becomes final is a ground for denial of license.

235 (g) A citation may not be issued under this section after the expiration of one year after
236 the date on which the violation that is the subject of the citation is reported to the division.

237 (h) (i) Except as provided in Subsections (5)(h)(ii) and (6), the director or the director's
238 designee shall assess a fine in accordance with the following:

239 (A) for a first offense handled under Subsection (5)(a), a fine of up to \$1,000;

240 (B) for a second offense handled under Subsection (5)(a), a fine of up to \$2,000; and

241 (C) for any subsequent offense handled under Subsection (5)(a), a fine of up to \$2,000
242 for each day of continued offense.

243 (ii) Except as provided in Subsection (6), if a person violates Subsection
244 58-55-501(16)(e) or (28), the director or the director's designee shall assess a fine in
245 accordance with the following:

- 246 (A) for a first offense handled under Subsection (5)(a), a fine of up to \$2,000;
- 247 (B) for a second offense handled under Subsection (5)(a), a fine of up to \$4,000; and
- 248 (C) for any subsequent offense handled under Subsection (5)(a), a fine of up to \$4,000
249 for each day of continued offense.

250 (i) (i) For purposes of issuing a final order under this section and assessing a fine under
251 Subsection (5)(h), an offense constitutes a second or subsequent offense if:

- 252 (A) the division previously issued a final order determining that a person committed a
253 first or second qualifying violation; or
- 254 (B) (I) the division initiated an action for a first or second offense;
- 255 (II) a final order has not been issued by the division in the action initiated under
256 Subsection (5)(i)(i)(B)(I);
- 257 (III) the division determines during an investigation that occurred after the initiation of
258 the action under Subsection (5)(i)(i)(B)(I) that the person committed a second or subsequent
259 qualifying violation; and
- 260 (IV) after determining that the person committed a second or subsequent qualifying
261 violation under Subsection (5)(i)(i)(B)(III), the division issues a final order on the action
262 initiated under Subsection (5)(i)(i)(B)(I).

263 (ii) In issuing a final order for a second or subsequent offense under Subsection
264 (5)(i)(i), the division shall comply with the requirements of this section.

265 (j) In addition to any other licensure sanction or fine imposed under this section, the
266 division shall revoke the license of a licensee that violates Subsection 58-55-501(23) or (24)
267 two or more times within a 12-month period, unless, with respect to a violation of Subsection
268 58-55-501(23), the licensee can demonstrate that the licensee successfully verified the federal
269 legal working status of the individual who was the subject of the violation using a status
270 verification system, as defined in Section 13-47-102.

271 (k) For purposes of this Subsection (4), a violation of Subsection 58-55-501(23) or (24)
272 for each individual is considered a separate violation.

273 (6) If a person violates Section 58-55-501, the division may not treat the violation as a

274 subsequent violation of a previous violation if the violation occurs five years or more after the
275 day on which the person committed the previous violation.

276 (7) If, after an investigation, the division determines that a person has committed
277 multiple of the same type of violation of Section 58-55-501, the division may treat each
278 violation as a separate violation of Section 58-55-501 and apply a penalty under this section to
279 each violation.

280 (8) (a) A penalty imposed by the director under Subsection (5) shall be deposited into
281 the Commerce Service Account created by Section 13-1-2.

282 (b) A penalty that is not paid may be collected by the director by either referring the
283 matter to a collection agency or bringing an action in the district court of the county in which
284 the person against whom the penalty is imposed resides or in the county where the office of the
285 director is located.

286 (c) A county attorney or the attorney general of the state shall provide legal assistance
287 and advice to the director in an action to collect a penalty.

288 (d) In an action brought to collect a penalty, the court shall award reasonable attorney
289 fees and costs to the prevailing party.

290 Section 3. **Effective date.**

291 This bill takes effect on May 1, 2024.